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ORDINANCE NO. 3795

AN INTERIM ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF ECDC 20.110.040(F) MONETARY PENALTIES IN ORDER TO CLARIFY THE IMPACT OF THE AMENDMENT ON EXISTING CODE ENFORCEMENT ACTIONS, AMENDING ECDC 20.110.040(D) TO CLARIFY APPEAL PROCEDURES TO SUPERIOR COURT, PROVIDING FOR NOTICE PURSUANT TO RCW 36.70A.106, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the Washington State Supreme Court in its decision in *Post v. Tacoma*, 217 P.3d 1179 (2009) has determined that code enforcement procedures which provide for continuing penalties without the opportunity for appeal is a violation of due process; and

WHEREAS, Chapter 20.110 ECDC provides for specific notice of violation [ECDC 20.110.040(A)(2)] and of repeat violations [ECDC 20.110.040(B)(2)]; and

WHEREAS, the code enforcement procedures also provide for notice of violation and appeal [ECDC 20.110.040(B) and (C)]; and

WHEREAS, however, ECDC 20.110.040(F) provides for continuing violations with the imposition of a fine without the specific provision for additional notice of hearing; and

WHEREAS, ECDC 20.110.040(D) should be clarified to specify appeal by Chapter 35.70C RCW to provide explicit appeal information; and

WHEREAS, the City Council deems it to be in the public interest to clarify that continuing violations shall be accompanied by additional notice of violation and opportunity for hearing; and

WHEREAS, RCW 36.70A.390 provides for the imposition of interim zoning controls without a public hearing, subject to a public hearing within sixty (60) days; and

WHEREAS, this ordinance has been referred to the Planning Board for review and recommendation; and

WHEREAS, the Planning Board due to a heavy work load, has begun review but has been unable to make a recommendation; and

WHEREAS, the Planning Board estimates that an additional 60-90 days may be required for it to hold a public hearing and to make a recommendation; and

WHEREAS, a public hearing was held on June 1, 2010 pursuant to RCW 36.70A.390; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. There is hereby adopted as an interim zoning control, the following revision of ECDC 20.110.040 Enforcement Procedures, (F) Monetary Penalties, to read as follows:

20.110.040 Enforcement procedures.

...

F. Monetary Penalties. Except where a different penalty is specifically established by this code, violations shall be assessed at the rate of \$100 per day or a portion of day thereof, for each and every day after the service of the notice of civil violation. The violations Hearing Examiner may also grant an extension of the date upon which fines begin in order to allow for a reasonable period of abatement. Such extension shall not exceed ten (10) calendar days. Following a finding of the Hearing Examiner of the existence of a violation at the appeal hearing on the expiration of the appeal period, continuing fines may be assessed by the provision of additional notice of civil violation pursuant to 20.110.040(B)(2) and an opportunity for hearing. No additional

fine for a continuing violation may be assessed without the provision of notice and the opportunity for a hearing.

...

Section 2. Any pending code violation which is subject to the accrual of additional fines based upon a notice of civil violation shall be immediately stayed. At the discretion of the Community Services Director or his/her designee, the staff may provide for either notice of repeated violation pursuant to the provisions of 20.110.040(B)(2) followed by an opportunity for hearing, or dismissal of the pending code enforcement action and refile by the provision of a new notice of civil violation under 20.110.040(B).

Section 3. Section ECDC 20.110.030 Enforcement procedures , Section D Appeal to Superior Court is amended to read as follows:

20.110.040 Enforcement procedures

...

D. Appeal to Superior Court. The determination of the Hearing Examiner is final and shall be appealable to Superior Court in accordance with Chapter 36.70C RCW.

Section 4. Notice of the adoption of this ordinance shall be provided to the Washington State Department of Community, Trade and Economic Development.

Section 5. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:


MAYOR GARY HAAKENSON

ATTEST/AUTHENTICATED:

Sandra S. Chase

CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

BY

W. Scott Snyder
W. SCOTT SNYDER

FILED WITH THE CITY CLERK:	05-28-2010
PASSED BY THE CITY COUNCIL:	06-01-2010
PUBLISHED:	06-06-2010
EFFECTIVE DATE:	06-11-2010
ORDINANCE NO. <u>3795</u>	

SUMMARY OF ORDINANCE NO. 3795


of the City of Edmonds, Washington

On the 1st day of June, 2010, the City Council of the City of Edmonds, passed Ordinance No. 3795. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN INTERIM ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF ECDC 20.110.040(F) MONETARY PENALTIES IN ORDER TO CLARIFY THE IMPACT OF THE AMENDMENT ON EXISTING CODE ENFORCEMENT ACTIONS, AMENDING ECDC 20.110.040(D) TO CLARIFY APPEAL PROCEDURES TO SUPERIOR COURT, PROVIDING FOR NOTICE PURSUANT TO RCW 36.70A.106, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.

DATED this 2nd day of June, 2010.


CITY CLERK, SANDRA S. CHASE

Affidavit of Publication

STATE OF WASHINGTON,
COUNTY OF SNOHOMISH

} S.S.



SUMMARY OF ORDINANCE NO. 3795

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AN INTERIM ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF ECDC 20.110.040(F) MONETARY PENALTIES IN ORDER TO CLARIFY THE IMPACT OF THE AMENDMENT ON EXISTING CODE ENFORCEMENT ACTIONS, AMENDING ECDC 20.110.040(D) TO CLARIFY APPEAL PROCEDURES TO SUPERIOR COURT, PROVIDING FOR NOTICE PURSUANT TO RCW 36.70A.106, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.
DATED this 2nd day of June, 2010.

CITY CLERK, SANDRA S. CHASE

Published: June 6, 2010.

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice

Summary of Ordinance No. 3795

Amending the Provisions of ECDC 20.110.040(F)

a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

June 06, 2010

and that said newspaper was regularly distributed to its subscribers during all of said period.

Jody Groll

Principal Clerk

Subscribed and sworn to before me this

7th

day of June, 2010

Notary Public in and for the state of Washington, residing at Everett, Snohomish County.

RECEIVED

JUN 11 2010

EDMONDS CITY CLERK

Account Name: City of Edmonds

Account Number: 10416

Order Number: 0001698885

